

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JEREMY WESLEY CLAY,

Petitioner,

v.

Case No. 2:17-CV-11522
Hon. George Caram Steeh
United States District Judge

RANDALL HAAS,

Respondent.

_____ /

OPINION AND ORDER DENYING THE MOTIONS
FOR THE APPOINTMENT OF COUNSEL AND
TO PROCEED IN FORMA PAUPERIS

Before the Court are petitioner's motions for the appointment of counsel and to proceed *in forma pauperis*. For the reasons that follow, the motions are denied.

Petitioner filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. This Court summarily dismissed petitioner's habeas application on the ground that petitioner failed to exhaust his claim with the state court. The Court declined to hold the petition in abeyance, because petitioner's sole claim for relief was unexhausted, thus depriving the Court of jurisdiction over the petition. *Clay v. Haas*, No. 2:17-CV-11522, 2017 WL

2306447 (E.D. Mich. May 26, 2017). The Court subsequently denied petitioner's motion for an extension of time to re-file his petition for writ of habeas corpus after he exhausted his claim in the state court, because the Court did not retain jurisdiction over petitioner's first habeas petition when the Court dismissed the case without prejudice. The denial of the motion was without prejudice to petitioner filing a petition for writ of habeas corpus with the federal district court under a new case number. *Clay v. Haas*, No. 2:17-CV-11522 (E.D. Mich. July 12, 2017)(ECF No. 10).

Petitioner has now filed a motion for the appointment of counsel and a second motion requesting the appointment of counsel and permission to proceed *in forma pauperis*.

This Court lacks jurisdiction to grant the motions because the Court did not retain jurisdiction over the case when the Court dismissed the petition without prejudice. Petitioner is free to file a new habeas petition under a new case number. Petitioner should submit his requests for counsel and to proceed *in forma pauperis* with a new habeas petition filed under a new case number. Accordingly, the motions are denied without prejudice.

Accordingly, the motions to appoint counsel and to proceed in forma pauperis (ECF No. 14, 15) are **DENIED WITHOUT PREJUDICE**.

Dated: January 5, 2022

s/George Caram Steeh
GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on January 5, 2022, by electronic and/or ordinary mail and also on Jeremy W. Clay #861817, Macomb Correctional Facility, 34625 26 Mile Road, New Haven, MI 48048.

s/Brianna Sauve
Deputy Clerk